

Development Pattern and Development District For the Bozeman Pass Zoning District

Gallatin County, Montana

Prepared by

The Bozeman Pass Citizens' Group

and

Gallatin County Planning Department

For the Bozeman Pass Planning and Zoning Commission
Gallatin County, Montana

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Section 1 **Introduction**

The Development Pattern and Development Pattern Map for the Bozeman Pass Zoning District (the “Development Pattern”) are intended to guide all types of future growth and development in the Bozeman Pass Planning and Zoning District (the “District”). This Development Pattern, along with the Development District for the Bozeman Pass Zoning District (“Development District”), along with the accompanying Bozeman Pass Zoning Regulations and Zoning Map (“Zoning Regulations”) enhance the public health, safety, and general welfare by protecting the rural agricultural character of the District and by protecting the District’s natural and scenic qualities. In addition, the Development Pattern, Development District and Zoning Regulations enhance the public health, safety, and general welfare by protecting, among other community assets, valuable wildlife habitat and migration routes. The information presented in this Development Pattern was used to develop the accompanying Development District and the Zoning Regulations, including the recommended densities.

The Development Pattern, Development District and Zoning Regulations have been prepared in accordance with Sections 76-2-101 *et sec.*, Montana Code Annotated. The Bozeman Pass Planning and Zoning Commission (the “Planning & Zoning Commission”), having been duly created upon petition by the Gallatin County Board of County Commissioners (“the Commission”), shall be guided by and give consideration to the general policy and pattern of development set out in this Development Pattern, the Development District and in the adoption of the Zoning Regulations.

This Development Pattern, Development District and accompanying Regulations, with accompanying maps, show the Bozeman Pass Planning and Zoning Commission’s recommendations for the development of the District and all sub-districts. The accompanying Zoning Regulations show the Planning and Zoning Commission’s recommendations for which uses of land shall be lawful and which uses shall be unlawful as well as which types of buildings, trades, industries and callings are to be permitted or conditionally permitted. The Zoning Regulations also establishes the height and bulk of future buildings as well as the area of yards, open spaces, and setbacks.

The District is generally located between the cities of Bozeman and Livingston, nestled between the northeastern edge of the Gallatin Mountain Range and the southwestern foothills of the Bridger Mountain Range within Gallatin County, Montana (the “County”). The area’s diverse landscape ranges from rugged rocky crags to rolling hills, meadows, woodlands, and open range. It includes Moffitt Gulch, Eagle Rock, and portions of Kelly Canyon, Jackson Creek, Quinn Creek, Timberline and the Chestnut area.

The District covers roughly 20,000 acres of private and public land. It is home to active farms and ranches as well as rural residential neighborhoods. The District is bordered by the following Gallatin County zoning districts: Bear Canyon Zoning District, Bridger Canyon Zoning District, Hyalite Zoning District, Trail Creek Zoning District, and the Gallatin County/ Bozeman Area Zoning District (the “Bozeman Donut”). The District is bordered by Park County to the east.

Due to concern regarding potential coalbed methane and oil and gas exploration, and associated development and production in the area, in 2002, residents of the Bozeman Pass area requested the Commission create the Bozeman Pass Area Interim Zoning District for the purposes of regulating such development in the area. Adopted in July of 2002, the emergency interim district remained in effect for only two years. During that time, residents of the District worked to facilitate a planning process that assessed community goals and objectives and prepared a permanent development pattern and regulations for adoption by the Planning and Zoning Commission and the Commission.

In order to prepare this Development Pattern, the Development District and accompanying Zoning Regulations, the Bozeman Pass Citizens' Group facilitated a two-year planning process that included numerous opportunities for public involvement. The process was launched in October of 2002 at a community meeting during which residents volunteered to form a steering committee. Members of the steering committee included residents from the diverse neighborhoods in the District and were comprised of both large and small landowners. This process identified community values, attitudes and visions for the future of the area. During the spring and summer of 2003, the steering committee organized two community visioning meetings and five community education meetings in which residents of the Interim Zoning District identified goals for the future of the District and land use issues that needed to be addressed by the planning process. Through the rest of 2003 and 2004, the steering committee met regularly to draft a plan and regulation. This plan and regulation were presented to the community as a whole for public review and comment.

Public participation opportunities throughout the process included the following:

- Kick-off community meeting, October 2002.
- Four neighborhood meetings, February 2003.
- Two community-visioning meetings, March 2003.
- Mail in questionnaire seeking input on important issues, April 2003.
- Five community education sessions, April – June 2003.
- Bi-monthly public steering committee meetings, Fall 2002 – Spring 2004.
- Five newsletters, Fall 2002- Fall 2003.
- Large landowner meeting, January 2004.
- Community meeting, April 2004.
- Public hearing with County Commissioners and County Planning Board, December 2004
- Between January and June 2005, the committee has spoken with many of the district's freeholders, collecting information on what should be modified or improved in the regulations. This resulted in the new regulations.

Section 2

Area History

In 1806, Captain William Clark and Sacagawea led part of the Lewis and Clark Expedition eastward along an ancient buffalo trail, known 60 years later as the Old Bozeman Trail, that follows Kelly Creek to present day Sawmill Road, and over the divide toward Jackson Creek. Located at the edges of Crow, Shoshone, Sioux and Blackfoot territory, the District was unoccupied when visited by the Corps of Discovery. Kelly Canyon was the western end of the Bozeman Trail for muleskinners and bullwhackers freighting goods for the early settlers and soldiers of the Gallatin Valley. At one time, the United States Army stationed at Fort Ellis maintained a lookout post atop Bozeman Hill. What those lookouts saw were timbered hillsides and open meadow valleys, mostly open land with few interruptions, well watered and teeming with wildlife. Rocky Creek and Kelly Creek join a bit west of the District, to form the East Gallatin River, one of the headwaters of the Missouri River. Since the 1870's, the Bozeman Pass area has served for farming and as a summer pasture and a source of timber for Bozeman.

In 1867, Colonel James D. Chestnut discovered coal near the current community of Chestnut, in Rocky Creek Canyon. Eventually the mine at Chestnut became a major source of heating fuel for Bozeman as well as for the steam engines of the Northern Pacific Railroad. From the 1890s to 1910, Chestnut was a boomtown, home to hundreds of coal miners and their families, with four saloons, a hotel, a boardinghouse, churches and a post office. There was regular rail service to Bozeman and also to Timberline and nearby Stores, on Trail Creek. The mouth of Moffit Canyon was the site of one of Montana's first residences, a stagecoach stop on the line to Virginia City, prior to the founding of the town of Bozeman.

In the 1960's Interstate 90 was constructed parallel to the old Northern Pacific rail line. The new highway obliterated most of the remains of old Chestnut as well as old Highway 10 in the narrow canyon of Rocky Creek. The most prominent geographic feature of the area is the cliff formations along Rocky Creek known as "The Frog" - visible for many miles to the west in the Gallatin Valley.

Today the District's population is less than half what it was a century ago, in the heyday of coal mining. The homes of new residents built within the last 30 years are mostly scattered, private and secluded. Except for the frontage road and the Interstate, few roads are paved. Nearly all the District's residents own the property on which they reside. Many work from their homes, connected with electricity and telephone wires to the world of the internet and national commerce. Others commute to Bozeman or other nearby jobs. Some residents retreat here when not traveling the nation's airways and roadways. A few are retired, and a few are summer only residents. Over half of the existing tracts are undeveloped. A few family farms continue or lease their land as summer cattle pasture. The area is now completely dependent on Bozeman for goods and services.

Some of this land has been used for nearly a century and a half for sustainable timber harvest. These lands, as well as many smaller land holdings are also economically productive as summer grazing. Many undeveloped areas are also used as ungulate winter range and wetland riparian areas, thus reflecting high land value for natural resource conservation according to the Gallatin County Wildlife Habitat Study, conducted by the Montana State University Biology Department in 2001.

Section 3

Goals and Objectives

The overall purpose of the Development Pattern, Development District and accompanying Zoning Regulations is to further the public health, safety and general welfare of the people of the County and the District. There are two primary goals that target this overall purpose: (1) protect and maintain the natural quality of the area; and (2) protect and maintain the character and freedoms associated with living in a rural area. As discussed below, each goal has numerous implementation objectives. The Planning and Zoning Commission hereby finds these primary goals and implementing objectives to be directly related to public health, public safety, and the general welfare of the citizens of the County and the District.

The primary tool for fulfilling these goals and accompanying objectives is to plan for and guide future land uses and densities. In essence, this Development Pattern and accompanying Zoning Regulations address the various implementing objectives, illustrate how those objectives support each goal and, in turn, show how each goal enhances the underlying purpose. Overall, this Development Pattern forms the basis for the future physical and economic development of the District.

In addition, this Development Pattern and the accompanying Zoning Regulations are intended to aid Bozeman Pass residents, property owners, interested citizens, area business persons, agricultural enterprises, governmental agencies, County planning staff, and member of the Planning and Zoning Commission in reaching decisions regarding future land use in the Bozeman Pass area. The scope and content are designed to focus on the above objectives and to minimize undue restrictions on the use of private property.

The health, safety and general welfare of the people of Gallatin County, and specifically, the residents of the District will be maintained and furthered by achieving the following goals, with accompanying bulleted implementation objectives:

Goal: Protect and maintain the natural quality of the area.

Implementing Objectives:

- Maintaining and enhancing the quantity and quality of ground and surface waters;
- Maintaining open space and scenic views;
- Sustaining wildlife habitat and migration;
- Preserving and enhancing fish habitats;
- Maintaining the night sky visibility and low noise levels of the area;
- Controlling Noxious Weeds; and
- Encouraging new development to consider other natural constraints such as soil characteristics and topography.

Goal: Protect and maintain the character and freedoms associated with living in a rural area

Implementing Objectives:

- Ensuring that land use maintains the rural character, wildlife, open space, and agriculture;
- Respecting property rights while ensuring that land use remains compatible with existing uses;
- Protecting landowners from industrial and commercial development that is inconsistent with the character of the area;
- Protecting landowners from the impacts associated with coal bed methane and oil and gas development as well as impacts associated with mining;
- Conserving, protecting and enhancing property values;
- Encouraging and ensuring that residential development is consistent with existing uses; and
- Encouraging agricultural uses.

Section 4

Natural Resources

This section identifies and describes several natural resources within the District that have a bearing on the public health, safety and general welfare. A brief narrative, recommendations, and maps illustrating the natural resources are presented. The information included in this chapter provides a means to describe specific natural resources and how the conservation of those resources has a substantial bearing on the public health, safety and general welfare. The information provided forms a basis for the policy statements in Chapter 6 wherein it will be demonstrated how the policies that underlie this Development Pattern and accompanying Zoning Regulations will enhance the public health, safety and general welfare by protecting the unique characteristics of the District. Consequently, information included in this section shall serve as guidelines for proper land use decisions.

4.1 Topography

The topography for the District is quite diverse (*see Map A*). As shown on Map A, the topography within the District includes the foothills of the Gallatin Range and several mountain valleys such as Jackson Creek and Kelly Canyon.

Slope gradients within the District are a limitation to land use development. Development on slopes exceeding 15 (fifteen) percent grade can be logistically difficult and may result in increased erosion and scarring. Slopes in excess of 25 (twenty five) percent represent a constraint to development.

4.2 Wildlife habitat

The District is an important area for a diversity of wildlife. Mule deer, white-tailed deer, elk, moose, black bear, coyotes and mountain lions are all common to the area. Diverse habitats range from open grasslands to coniferous forests in the higher elevations and lush willow communities along the area's numerous streams. This diverse vegetation offers cover and forage for all of the species found in the District. **Map B** illustrates winter range for elk and distribution of moose within the District.

A large herd of elk winters in the Bangtail Mountains to the northeast of the District. Another smaller herd winters in the Story Hills to the west of the District. Both elk herds move through the District between summer and winter ranges. Deer also reside in and travel throughout the District, with mule deer being more prevalent than white-tailed deer.

The District is on the cusp of the expansion area for both grizzly bears and wolves at the northern end of the Greater Yellowstone area. There are indications of wolf packs forming in the Shields Valley to the east of the District and along the north face of the Gallatin Range, which is immediately south of the District.

The area encompassed by the District has been identified as an important connector for wildlife migration linking the Gallatin, Absaroka, Bridger and Bangtail mountains in south central Montana. Numerous scientific studies, including those by the U.S. Forest Service, Montana Fish, Wildlife and Parks, American Wildlands, the Craighead Environmental

Research Institute (CERI), the Interagency Grizzly Bear Committee, and Conservation Science, Inc. recommend Bozeman Pass as a priority wildlife linkage area. Threats to secure wildlife movement through this area include rural housing development, Interstate-90, the Montana Rail Link rail line, and industrial development.

4.3 Vegetation

The District is comprised of shrub-grassland communities near Bozeman to mid-elevation coniferous forest in the center of the Bozeman Pass, which is on the eastern edge of the District.

4.4 Soils

Soils can be a limiting factor to development because soil properties affect excavation and construction as well as the suitability of a site for traditional septic systems. Soils descriptions from the United States Department of Agriculture's Natural Resources Conservation Service (NRCS) provide information on soil related development constraints. A high-water table, flooding, shrinking and swelling, and organic layers can cause the movement of footings. A high-water table, depth to bedrock or to a cemented pan, large stones, slope, and flooding affect excavation and construction.

Septic tank absorption fields are areas in which effluent from a septic tank is distributed into the soil through subsurface tiles or perforated pipe. Only that part of the soil between depths of 24 and 72 inches is evaluated. The ratings are based on soil properties, site features, and observed performance of the soils. Soil permeability, a high-water table, the depth to bedrock or to a cemented pan, and risk of flooding all affect absorption of the effluent. Large stones and bedrock or a cemented pan interfere with septic system installation.

Unsatisfactory performance of septic tank absorption fields, including excessively slow absorption of effluent, surfacing of effluent, and hillside seepage, can affect public health. Ground water can be polluted if highly permeable sand and gravel or fractured bedrock is less than 4 feet below the base of the absorption field, if slope is excessive, or if the water table is near the surface. There must be unsaturated soil material beneath the absorption field to filter the effluent effectively.

Section 5

Public Services

- 5.1 Law Enforcement.** The Gallatin County Sheriff provides law enforcement services to the District.
- 5.2 Medical Emergency.** American Medical Response provides emergency services to residents in the District. Bozeman Deaconess Hospital provides hospital services.
- 5.3 Fire Protection.** Bridger Canyon and Fort Ellis rural fire districts provide fire service to the District. Within the Gallatin National Forest boundary, the Forest Service has primary responsibility for fire protection and management.
- 5.4 Educational Facilities.** Three elementary schools serve the District including: Lamotte (District #43), Bozeman (District #7), and Malmborg (District #47). Students of high school age attend Bozeman Senior High.
- 5.5 Road Maintenance.** The District includes both public and private roads. Not all public roads are maintained by the County. (Jackson Creek and Stublar roads are plowed and graded by the County.) Residential subdivision roads are typically public roads maintained by homeowner associations. National Forest roads and trails also exist within the District and are maintained by the National Forest Service. These are not approved or plowed for residential subdivision purposes.

Section 6

Development Policies

This section describes five distinct development policies that address current conditions within the District that either negatively or positively affect the public health, safety and general welfare of the citizens of County and the District. Moreover, these policies illustrate how the goals and implementing objectives of this Development Pattern and the accompanying Zoning Regulations have a substantial bearing on and are rationally related to enhancing the public health, safety, and general welfare. This section establishes the policy foundation for the Bozeman Pass Zoning Regulations.

6.1 Agriculture and Open Space:

As described above, the District maintains active agriculture operations, a foundation of the Gallatin County economy, and provides important open space for District and County residents. The Planning and Zoning Commission recognizes the continuation of agriculture and the conservation of open space, whether public or private, as a legitimate interest that is directly related to the general welfare of the residents of both the County and the District. The Planning and Zoning Commission hereby determines the conservation of agricultural lands and open space to be a fundamental policy of the Development Pattern that will guide the future economic and physical development of the District.

The long-term viability of agriculture and conservation of open spaces is directly related to the density and uses of the District. In order to protect current agricultural uses and conserve open space, the rural residential character of the District must be maintained. The densities of the sub-districts are established, in part, to maintain this rural residential character, thus providing an opportunity for continuing and future agriculture uses and ensuring long-term open space protections. All land uses and densities established by the Zoning Regulations should minimize impact to these important resources.

6.2 Industrial Development:

The Interim Zoning District, as described in Section 2, was created to provide a mechanism for local review of certain types of industrial development and the Planning and Zoning Commission recognizes the threats that lead to the Interim Zoning District continue to exist. Industrial development has a direct impact on not only the general welfare of the public, but also public health and safety. The impacts of coal bed methane, oil, gas, and mineral exploration, development, and production include, but are not limited to:

- Degradation of surface and groundwater quality and quantity;
- Loss of and fragmentation to wildlife habitat;
- Degradation of soil, air and plant life;
- Soil erosion;
- Degradation of air quality;
- Increasing costs and impacts to public services and on public facilities and infrastructure;
- Decreasing property values in the area; and
- Disruption of the rural character.

Each of the above impacts has a substantial bearing on public health, public safety or the general welfare. Primarily, degradation of surface and groundwater quality and quantity attributable to certain types of industrial development directly affects public health because of the importance of clean and plentiful water to residents, agriculture, and wildlife. In addition, loss of and fragmentation to wildlife habitat from industrial development affects the general welfare of the public because of the critical importance of viable wildlife populations to all Montanans.

Next, the degradation of soil, air, and plant life associated with certain types of industrial development impacts the public health and the general welfare. Soil instability and loss of soil integrity impacts water quality through the ability of soils to filter contaminants. In addition, protecting soil stability works to protect water quality by reducing erosion while soil free from pollution protects the ability of both cultivated and wild plants to thrive.

Moreover, certain types of industrial development will have a negative impact on local and regional air quality, a legitimate public health concern and will negatively affect costs and impacts to the public services described in Section 5. Certain types of industrial development will require increased local governmental services, be it in the form of road maintenance, police, emergency medical services, or fire protection.

Finally, certain types of industrial development will negatively impact property values and disrupt the rural character of the area, both of which are directly related to the general welfare of the citizens of the County and the District. As described in Section 2, the area no longer supports industrial development, nor has it for several decades. The increase in residential property values over the last several decades is attributable, in part, to the lack of industrial development since the District is prized for its rural residential character, not for the opportunities of industrial development. Certain types of industrial development may reduce the trend of increasing property values, and perhaps even work to reduce property values.

As described above in Section 6.1, the Planning and Zoning Commission's policy is to conserve agriculture and open space and to maintain a rural residential character. In addition, the primary goals and implementing objectives are established in Section 3. Therefore, the Planning and Zoning Commission hereby determines, based on the above impacts to the public health, safety, and general welfare, the agriculture and open space policy, and the primary goals and implementing objectives, that certain types of industrial development, such as oil, gas, coalbed methane and mineral exploration, and land use changes associated with subsequent development and production will have a significant impact on agriculture, open space, the natural quality of the District and the freedoms associated with living in a rural area.

Recognizing the above, it is the intent of the District to allow for responsible industrial development but only with specific conditions and with thorough review and oversight. The Zoning Regulations should require that any and all permitted industrial developments adequately mitigate impacts to these legitimate public health, safety, and welfare concerns.

6.3 Residential Development:

Future residential development must be planned with care and creativity to ensure the natural and rural quality of the area and to protect the character and freedoms associated with living in a rural area. In order to encourage residential development that meets the goals and implementing objectives of this plan, and therefore enhances the public health, safety and general welfare, the following principles guided the planning process for future land divisions:

- There would be varying densities within the District in recognition of the varied characteristics of landscape and existing land uses.
- Higher densities generally make sense closer to existing development & closer to town.
- Densities will be designated using an average density system rather than a strict minimum lot size.
- To maintain the freedoms and responsibilities characteristic of a rural area, uses allowed by right will not require land use permits.

In recognition of the differing characteristics of various parts of the District, three sub-districts will be created based on density. (See **Map C**). These sub-districts are:

- Agricultural & rural residential 40 (AR 40).
- Agricultural & rural residential 80 (AR 80).
- Public lands 640 (PL 640).

One dwelling unit and accessory structures will be permitted by right according to the densities designated in each sub-district. Additional residential structures for immediate family members will be permitted as a conditional use.

Gallatin County is working to create a County transfer of development rights (TDR) program. The details of the program such as designation of sending and receiving areas, calculation of transfer ratios, and mechanism and recording requirements for transferring development rights have not been worked out at this time. It is anticipated the Bozeman Pass District will participate in this program. Subsequent to the County's initial adoption of the Bozeman Pass Development Pattern and Zoning Regulations, amendments may be proposed to these documents by landowners or governing body to specify how a landowner wishing to transfer a development right from the District will be able to do so in accordance with any County-wide TDR program.

The use of an average density system rather than a traditional minimum lot size requirement furthers the public health, safety and general welfare by ensuring the future physical development of the District is compatible with the goals and implementing objectives of the District. As stated in Section 3, the primary goals and implementing objectives are directly related to public health, public safety, or the general welfare of citizens of the County and the District. The density designations are thus an important component of this Development Pattern and accompanying Zoning Regulations in terms of meeting the goals and implementing objectives. The goals and implementing objectives are strongly founded in maintenance of active agriculture, conservation of open space, protection of wildlife habitat

and migration corridors, protection of water quality and quantity, and conserving and enhancing property values.

The density of the District takes advantage of the significant acreage of public lands in the area, and considers the potential for future privatization of these lands. The density of public lands was designated as one dwelling per 640 acres in order to preserve the open space of these areas, which include important wildlife habitat and contribute significantly to property values in the area. This density designation only applies should these lands be privatized.

6.4 Commercial Development:

Due to the largely rural residential character of the District, non-agricultural commercial development is not likely at any large scale. The most likely portions of the District to experience commercial development are around the interchanges with Interstate 90, which runs through the middle of the District. Commercial uses which are generally in keeping with the rural, agricultural character of the area will be permitted in the agricultural/residential districts as conditional uses. Appropriate home-based businesses will be treated as a use allowed by right.

6.5 Public Lands:

The Development Plan and Zoning Regulations identify approximately 8900 acres of state and federal land in the District as important for forestry, agriculture, open space and recreation. These lands also include some of the least fragmented wildlife habitat in the District.

Section 7

Development District

7.1 Creation of the Development District

The creation of the Development District for the Bozeman Pass Zoning District originated due to all the maps, charts, and descriptive matter that form the basis for the Development Pattern and all those maps, charts and descriptive matter form the basis for the creation of the Development District. The Development District includes the entire Bozeman Pass Zoning District (“District”). As such, the exterior boundaries of the Development District are the same as the exterior boundaries of the District and include all lands that encompass all three zoning classifications: AR 40, AR 80 and PL 640, as described below in Section 2 (Development District Boundaries).

The Development District encompasses all lands within the District because uniform application of the established Development Pattern and consideration of the entire District as a single functional element will further the public health, safety, and general welfare if the Development Pattern applies uniformly throughout the District. As described in Sections 1 and 2 of the Development Pattern (Introduction and Area History), the history and landscape of Bozeman Pass is more remarkable when considered as a functional whole, rather than as different, distinct functional elements.

Other components of the Development Pattern require the creation of a single Development District. As described in Section 3 of the Development Pattern, the goals and objectives for the District apply uniformly to the entire District, regardless of the zoning classification. Likewise, as described in Section 4 of the Development Pattern, the issues regarding natural resources within the District are uniform throughout the District, regardless of zoning classification, as are the issues related to public services (Development Pattern, Section 5). Finally, as described in Section 6 of the Development Pattern, the Development Policies that form the basis for the Development Pattern and the Zoning Regulations and Map are to be applied uniformly throughout the District, again, irrespective of zoning classification.

7.2 Development District Boundaries

The Development District for the Bozeman Pass Zoning District is located within townships 2 and 3 South, ranges 6 and 7 East, PMM, Gallatin County, MT, and more particularly described as follows:

T.2S., R.6E.: SECTION 11 – E½; All of Section 12 & 13; SECTION 14;– E½ North of the northeasterly boundary of the railroad right-of-way excepting; therefrom the following parcels: Tract A of COS 976, Tract defined by COS 545, Parcel described in Film 31, Page 2716; Parcel described in Film 57, Page 564 and Book 156, Page 82. SECTION 23 – All that portion of the E½ northeasterly of the northerly right-of-way boundary of Interstate 90 and southeasterly of the centerline of Moffit Gulch Road. Also including the parcel described in Film 74, Page 1719. SECTION 24 - All that portion northeasterly of the

southerly boundary of the railroad right-of-way and including all of COS 511. SECTION 25 - All that portion northeasterly of the southerly boundary of the railroad right-of-way. SECTION 33 - E½ and that portion of W½ shown on COS 1337. SECTION 34 - All. SECTION 35 - S½ and NE¼.

T.2S., R.7E.: SECTION 1 - SE¼, S½NE¼ and government lots 1 and 2. Also Tract A-1 of COS 1260A in the SW¼. SECTION 7 - All. SECTION 8 - All. SECTION 9 - government lots 9, 10, 11 and 12 and SE¼. SECTION 12 - All, excepting therefrom the following parcels: Tract B of COS 2012. Quinn Creek Properties, Lot 13. Quinn Creek Properties, Lot 11. Quinn Creek Properties, Lot 7. SECTION 13 - All W½ and all that portion of the E½ northerly of the southerly right-of-way boundary of Interstate 90 or the southerly boundary of the railroad right-of-way, whichever is more southerly, excepting therefrom the following parcels: Quinn Creek Properties, Lot 11. Quinn Creek Properties, Lot 7. Quinn Creek Properties, Lot 5. COS 717, Tract A. COS 717, Tract B. SECTION 14 - All that portion southerly of the southerly right-of-way boundary of Interstate 90, excepting therefrom Tract 1 of COS 639. SECTION 15 - All that portion of the N½ southerly of the southerly right-of-way boundary of Interstate 90, if any, and all S½ excepting therefrom COS 946. SECTION 16 - All. SECTION 17 - All. SECTION 18 - All. SECTION 19 - All. SECTION 20 - All that portion northerly of the northerly right-of-way boundary of Interstate 90, excepting therefrom the following parcels: Parcel described in Volume 36, Page 527; filed September 15, 1906. Tract 1 of COS 1459. Tract A of COS 1344A. Parcel I and Parcel II described in Film 62, Page 2456; April 27, 1981. Tract described in Volume 98, Page 509; filed June 27, 1949. Parcel A of COS 2456. Parcel described on COS 2455. Parcel described in Volume 94, Page 82; filed July 20, 1946. SECTION 21 - All that portion northerly of the southerly right-of-way boundary of Interstate 90. SECTION 22 - All. SECTION 23 - N½ and SE¼. SECTION 24 - Lot 22 of COS 916, Tract 1A of COS 1684B, Tract 2A of COS 1684B, and Tract 3 of COS 1684A, only. All of sections 30, 31 & 32.

T.3S., R.6E.: All of Sections 1, 2, & 3; SECTION 4 - S½, S½NE¼ and government lots 1 and 2. All of sections 9, 10, 11 & 12.

T.3S., R.7E.: All of Sections 4, 5, 6, 7, 8 & 9.